

104TH CONGRESS
2D SESSION

S. 2127

To amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Stop Sweatshops Act of 1996”.

6 (b) REFERENCE.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference
9 shall be considered to be made to a section or other provi-

1 sion of the Fair Labor Standards Act of 1938 (29 U.S.C.
2 201 et seq.).

3 **SEC. 2. FINDINGS.**

4 The Congress makes the following findings:

5 (1) The production of garments in violation of
6 minimum labor standards burdens commerce and
7 the free flow of goods in commerce by spreading and
8 perpetuating labor conditions that undermine mini-
9 mum living standards and by providing an unfair
10 means of competition to the detriment of employers
11 who comply with the law.

12 (2) The existence of working conditions det-
13 rimental to fair competition and the maintenance of
14 minimum standards of living necessary for health,
15 efficiency, and general well-being of workers is a
16 continuing and growing problem in the domestic gar-
17 ment industry.

18 (3) The Congress concurs in the findings of the
19 Comptroller General that most sweatshop employers
20 violate the recordkeeping requirements of the Fair
21 Labor Standards Act of 1938 and that the failure
22 of such employers to maintain adequate records has
23 affected, and continues to affect adversely, the abil-
24 ity of the Department of Labor to collect wages due
25 to workers.

1 (4) The amendment of the Fair Labor Stand-
 2 ards Act of 1938 to provide for legal responsibility
 3 on the part of manufacturers for compliance with
 4 such Act's wage and hour, child labor, and industrial
 5 homework provisions by contractors in the garment
 6 industry and to provide civil penalties for violations
 7 of that Act's recordkeeping requirements is nec-
 8 essary to promote fair competition and working con-
 9 ditions that are not detrimental to the maintenance
 10 of health, efficiency, and general well-being of work-
 11 ers in the garment industry.

12 **SEC. 3. LEGAL RESPONSIBILITY FOR COMPLIANCE WITH**
 13 **WAGE AND HOUR PROVISIONS IN THE GAR-**
 14 **MENT INDUSTRY.**

15 (a) AMENDMENT.—The Fair Labor Standards Act of
 16 1938 (29 U.S.C. 201 et seq.) is amended by inserting
 17 after section 14 the following:

18 “LEGAL RESPONSIBILITY FOR COMPLIANCE IN THE
 19 GARMENT INDUSTRY WITH SECTIONS 6 AND 7

20 “SEC. 14A. (a) Every manufacturer engaged in the
 21 garment industry who contracts to have garment manu-
 22 facturing operations performed by another person as a
 23 contractor—

24 “(1) shall be civilly liable, with respect to those
 25 garment manufacturing operations, to the same ex-
 26 tent as the contractor for any violation by the con-

1 tractor of section 6 (except for violations of sub-
 2 section (d)) or 7, for any violation by the contractor
 3 of the provisions of section 11 regulating, restrict-
 4 ing, or prohibiting industrial homework, and for vio-
 5 lation by the contractor of section 12; and

6 “(2) shall be subject to the same civil penalties
 7 assessed against the contractor for violations of such
 8 sections.

9 “(b) For purposes of this section:

10 “(1) The term ‘garment industry’ means the
 11 designing, cutting, sewing, dyeing, washing, finish-
 12 ing, assembling, pressing, or otherwise producing
 13 men’s, women’s, children’s, or infants’ apparel (in-
 14 cluding clothing, knit goods, hats, gloves, handbags,
 15 hosiery, ties, scarves, and belts, or a section or com-
 16 ponent of apparel, except for premanufactured items
 17 such as buttons, zippers, snaps, and studs) that is
 18 designed or intended to be worn by any individual
 19 and that is to be sold or offered for sale.

20 “(2) The term ‘manufacturer’ means any per-
 21 son, including a retailer, who—

22 “(A) contracts, directly or indirectly
 23 through an intermediary or otherwise, with a
 24 contractor to perform the cutting, sewing, dye-
 25 ing, washing, finishing, assembling, pressing, or

1 otherwise producing of any men's, women's,
2 children's, or infants' apparel (including cloth-
3 ing, knit goods, hats, gloves, handbags, hosiery,
4 ties, scarves, and belts, or a section or compo-
5 nent of apparel, except for premanufactured
6 items such as buttons, zippers, snaps, and
7 studs) that is designed or intended to be worn
8 by any individual and that is to be sold or of-
9 fered for sale; or

10 “(B) designs, cuts, sews, dyes, washes, fin-
11 ishes, assembles, presses, or otherwise produces
12 or is responsible for the production of any
13 men's, women's, children's, or infants' apparel
14 (including clothing, knit goods, hats, gloves,
15 handbags, hosiery, ties, scarves, and belts, or a
16 section or component of apparel, except for
17 premanufactured items such as buttons, zip-
18 pers, snaps, and studs) that is designed or in-
19 tended to be worn by any individual and that
20 is to be sold or offered for sale.

21 “(3) The term ‘contractor’ means any person
22 who contracts, directly or indirectly through an
23 intermediary or otherwise, with a manufacturer to
24 perform the cutting, sewing, dyeing, washing, finish-
25 ing, assembling, pressing, or otherwise producing of

1 any men’s, women’s, children’s, or infants’ apparel
 2 (including clothing, knit goods, hats, gloves, hand-
 3 bags, hosiery, ties, scarves, and belts, or a section or
 4 component of apparel, except for premanufactured
 5 items such as buttons, zippers, snaps, and studs)
 6 that is designed or intended to be worn by any indi-
 7 vidual and that is to be sold or offered for sale.

8 “(4) The term ‘retailer’ means any person en-
 9 gaged in the sale of apparel to the ultimate
 10 consumer for personal use.”.

11 (b) LIABILITY TO EMPLOYEES.—Section 16 (29
 12 U.S.C. 216) is amended—

13 (1) in subsection (b), by inserting after the first
 14 sentence the following: “A manufacturer in the gar-
 15 ment industry (as defined in section 14A(b)(2)) shall
 16 also be jointly and severally liable to such an em-
 17 ployee to the same extent as the contractor in the
 18 garment industry (as defined in section 14A(b)(3))
 19 who employed such employee if the contractor vio-
 20 lated section 6 (other than subsection (d)) or 7 in
 21 the production of apparel or components of apparel
 22 for such manufacturer.”;

23 (2) in subsection (b), by inserting in the last
 24 sentence “or by a manufacturer in the garment in-
 25 dustry” after “by an employer”; and

1 (3) in subsection (c)—

2 (A) in the third sentence, by striking “first
3 sentence” and inserting “first or second sen-
4 tence”; and

5 (B) in the third sentence, by inserting “or
6 by a manufacturer in the garment industry”
7 after “liable”.

8 **SEC. 4. RECORDKEEPING.**

9 Section 16(e) (29 U.S.C. 216(e)) is amended by in-
10 serting after the first sentence the following: “Any person
11 who fails to establish, maintain, and preserve payroll
12 records as required under section 11(c) shall be subject
13 to a civil penalty of not to exceed \$1,000 for each employee
14 who was the subject of such a violation. The Secretary
15 may, in the Secretary’s discretion, impose civil penalties
16 under this subsection for willful violations. Any person
17 who submits fraudulent payroll records to the agencies en-
18 forcing this Act in any of the agencies’ investigations or
19 hearings, or as evidence in a court action, that conceal
20 the actual hours of labor worked by employees or the viola-
21 tion of section 6, 7, 11(d), or 12 shall be subject to a
22 civil penalty of \$10,000 for each act of fraud and \$15,000
23 for each act of fraud for a second offense.”.

1 **SEC. 5. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 upon the expiration of 30 days after the date of enactment
4 of this Act.

